

**APPELLATE TERM, SECOND DEPARTMENT  
CIVIL APPEALS MANAGEMENT PROGRAM (CAMP)**

The Rules of the Appellate Term, Second Department provide as follows:

**§ 730.2 Civil appeals management program.**

- (a) The chief clerk of the appellate terms, in appropriate cases, may issue a notice directing the attorneys for the parties and/or the parties themselves to attend a pre-argument conference before a designated Justice or other designated person, to consider the possibility of settlement, the limitation of the issues, and any other matters which the designated Justice or other person determines may aid in the disposition of the appeal or proceeding.
- (b) Any attorney or party who, without good cause shown, fails to appear for a regularly scheduled pre-argument conference, or who fails to comply with the terms of a stipulation or order entered following a pre-argument conference, shall be subject to the imposition of such courts and/or sanctions as the court may direct.

The following is a sample *Notice* sent to the attorneys and/or parties when scheduled for a CAMP conference:

**Supreme Court of the State of New York**  
**Appellate Term: Second Judicial Department**

**INSTRUCTIONS TO COUNSEL**

***Civil Appeals Management Program***

The enclosed notice directs you to appear at a conference to be held before a Special Referee as part of this court's Civil Appeals Management Program, known by its acronym as CAMP. The purposes of CAMP are to afford litigants a means to avoid extended delays and to reduce the court's backlog of civil matters by facilitating settlement of not only the pending appeal or proceeding, but also of any underlying litigation. Five major steps in the representation of your client at CAMP can be identified, namely: (1) clear your schedule, (2) know the case, (3) contact the client, (4) appear at the conference ready to communicate, and (5) follow up vigorously.

**Clear your schedule.** CAMP conferences are to be considered appearances before the Appellate Term and take precedence over other matters. Upon receipt of the Notice of Conference check your diary for scheduling conflicts. A conference may be adjourned only by permission of the court. A request for an adjournment or cancellation of a CAMP conference must be made no later than one week prior to its scheduled date to:

**PAUL KENNY, ESQ., Administrator**

Civil Appeals Management Program

Appellate Term: Second Department

141 Livingston Street - 15<sup>th</sup> Floor

Brooklyn, NY 11201

Telephone: 347-401-9580

Facsimile Number: (718) 643-7180

Last-minute requests for adjournments or cancellations, unless of an emergency nature, will not be considered. Such emergency requests are to be made to the CAMP Administrator at the telephone number shown above.

Since the possibility of settling the entire case will be considered, the attorney for each party to the action or proceeding must appear, even if the party he or she represents will not be affected directly by the outcome of the proceedings before the Appellate Term.

**Know the case.** Only attorneys having knowledge of the facts and of the issues raised by the case are to attend the conference. Review the file and take stock of the strengths and weaknesses of your client's case. Assess the case from your opponent's viewpoint; examine the strengths of his or her position and probable objectives in the litigation. Do not send an associate without such knowledge to act in your stead.

**Contact the client.** The purpose of the conference is to settle the case, if possible, to resolve the appeal, or to limit the issues to be considered by the court. For this reason, *each attorney must make sure that his or her client is available telephonically*. Settlement negotiations stand a greater chance of success with all clients immediately accessible. If possible, prior to the conference the attorney should obtain written, unrestricted authority from the client to settle. The Referee may, in his or her discretion, require

your client's attendance at a conference.

Communicate with the client promptly upon receipt of the Notice of Conference and inform him or her of the date set for the conference and explain its purpose. Review with the client the assessment of the case that you undertook earlier. Determine the bottom-line objective that you can reasonably expect to be achieved for your client and for which he or she would be willing to settle. Only then should you decide on a negotiating strategy.

**Appear at the conference ready to communicate.** Announcements by an attorney at the outset of a conference that the case cannot be settled, or of the myriad incontestable reasons why his or her client must prevail, poison the atmosphere and prevent communication. To be effective at a settlement conference an advocate must speak calmly and listen carefully. A short presentation of the strengths of your client's case and an evaluation of the weaknesses of your opponent's case should be accompanied by attentive listening to a similar statement by opposing counsel. The search must be for common ground on which to base a settlement.

**Follow up vigorously.** In many cases the Referee can help the parties to work out the framework of a settlement. You and the other attorneys in the case may have to work out the remaining details. Do so expeditiously. The process of finalizing any settlement will be carefully monitored by CAMP personnel and the matter will appear on a status calendar to ascertain the progress that has been made. Complete your discussions well in advance of the date the matter appears on the status calendar

**Other matters.** The selection of your case for CAMP treatment does not excuse compliance with the rules of the Appellate Term with regard to timely perfection of cases and the filing of briefs, and it does not stay the inexorable march of perfected causes toward an appearance on the court's calendar for argument or submission. An application for an enlargement of time to perfect or to file a brief, or for an adjournment of a calendared case should be made through the office of the Clerk of the Appellate Term and not to CAMP personnel.

The unexcused failure to appear at a scheduled CAMP conference by an appellant may result, either on motion of the opposing party or on the court's own motion, in an order of the Appellate Term directing that party to show cause why the appeal or proceeding should not be dismissed or other appropriate sanctions be imposed. A default in appearance by a respondent may result in an order precluding that party from filing a brief, striking a filed brief, directing the payment of costs, or imposing another appropriate sanction. *In short, the enclosed Notice of Conference may not be disregarded without peril to your client's case.*

The Civil Appeals Management Program is a discrete bureau of the Appellate Term. In order to encourage the most open and frank efforts at settlement, the details of settlement negotiations are kept confidential and are not shared with other Appellate Term personnel or with the Justices of the Appellate Term. For that reason, all correspondence or other communications regarding the CAMP phase of the case should be addressed to the CAMP Administrator at the address, telephone and facsimile numbers provided on the first page of these instructions.

PAUL KENNY

Chief Clerk - Appellate Term